

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Moore v. Jackley

Moore · No. 4:25-CV-04191-ECS · Decided February 18, 2026

SUMMARY

The United States District Court for the District of South Dakota denies Joshua Moore’s motion to reconsider the court’s prior denial of his motion for judicial recusal. The court concludes that it did not misapprehend the facts or governing law under 28 U.S.C. § 455(a) and remains confident in its prior decision.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	C. Schul
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	February 18, 2026
DOCKET	4:25-CV-04191-ECS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the court's prior order denying his motion to recuse the court under 28 U.S.C. § 455(a).
STANDARD OF REVIEW	A motion to reconsider an interlocutory order is construed under Federal Rule of Civil Procedure 54(b). The court has wide discretion, and reconsideration is appropriate when the court has obviously misapprehended a party's position, the facts, or applicable law; reversal would require clearly erroneous factual findings or erroneous legal conclusions constituting an abuse of discretion.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- motion for reconsideration
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Moore established grounds for reconsideration of the interlocutory order denying judicial recusal.
2. Whether the court had misapprehended the facts or governing law when it concluded that reassignment did not constitute recusal and that its status as a co-defendant in separate litigation did not objectively require recusal under 28 U.S.C. § 455(a).

HOLDINGS

1. An interlocutory motion for reconsideration is construed under Federal Rule of Civil Procedure 54(b), and reconsideration is warranted only when the court has obviously misapprehended a party's position, the facts, or applicable law.
2. Moore did not establish a basis for reconsideration because the court had understood his argument about administrative transfers and had correctly applied the objective standard governing recusal under 28 U.S.C. § 455(a).

FACTUAL BACKGROUND

Moore argued that the court's prior administrative transfers of his cases reflected a pattern of judicial recusals. He also argued that the court's status as a co-defendant with South Dakota Attorney General Marty Jackley in separate litigation created an appearance of impropriety. The court had previously rejected both arguments and concluded that recusal was not objectively required.

PROCEDURAL HISTORY

Moore previously moved to recuse the court, arguing that the court's alleged pattern of recusal and its status as a co-defendant with Attorney General Jackley in separate litigation created an appearance of partiality. The court denied recusal in a prior order. Moore then moved for reconsideration, and the court denied that motion.

DISPOSITION

other

CASES CITED

- Moore v. Jackley, No. 4:25-CV-04191-ECS, 2026 WL 396106, at *1-2 (D.S.D. Feb. 3, 2026)
- Colombe v. United States, No. 5:24-CV-05069-ECS, 2025 WL 3063285, at *3 (D.S.D. Nov. 3, 2025)
- K.C. 1986 L.P. v. Reade Mfg., 472 F.3d 1009, 1016-17 (8th Cir. 2007)
- SPV-LS, LLC v. The Estate of Nancy Bergman, SPV-LS, LLC v. Transamerica Life Ins. Co., 912 F.3d 1106, 1111 (8th Cir. 2019)
- Interpreter Servs. v. BTB Techs., Inc., No. CIV. 10-4007, 2012 WL 984279, at *2 (D.S.D. Mar. 22, 2012)

- Schrag v. Dinges, 144 F.R.D. 121, 123 (D. Kan. 1992)
- Liteky v. United States, 510 U.S. 540, 548 (1994)
- Sw. Bell Tel. Co. v. FCC, 153 F.3d 520, 523 (8th Cir. 1998)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION JOSHUA M. MOORE, 4:25-CV-04191-ECS Plaintiff, ORDER DENYING MOTION FOR Vs. RECONSIDERATION MARTY JACKLEY, in his official capacity as Attorney General of South Dakota; ERNEST THOMPSON, in his official capacity as Deputy Attorney General of South Dakota, Defendants.

On December 5, 2025, Plaintiff Joshua Moore moved this Court to recuse itself. Doc. 6. Moore argued the Court's impartiality might reasonably be questioned because of its deviation from a "clear pattern of recusal" in the district and because this Court is named as a co-defendant with Attorney General Marty Jackley in a separate matter. *Id.*; see 28 U.S.C. § 455(a) (standard for judicial recusal).

In a reasoned opinion denying the motion, the Court explained that any alleged "pattern of recusal" was based on Moore's conflation of case reassignment (a ministerial task) with recusal. *Moore v. Jackley*, No. 4:25-CV-04191-ECS, 2026 WL 396106, at *2 (D.S.D. Feb. 3, 2026).

The Court further held that the mere fact of its status as co-defendant with Attorney General Jackley in separate litigation was insufficient to suggest an appearance of impropriety by remaining on this case. *Id.* Moore moves the Court to reconsider. Doc. 8. While the Federal Rules of Civil Procedure do not address a "motion to reconsider," the Court construes such a motion, when interlocutory, under Federal Rule of Civil Procedure 54(b), which "recognizes the Court's 'inherent power to reconsider and modify an interlocutory order any time prior to the entry of judgment.'" *Colombe v. United States*, No. 5:24-CV-05069-ECS, 2025 WL 3063285, at *3 (D.S.D.

Nov. 3, 2025) (quoting *K.C. 1986 L.P. v. Reade Mfg.*, 472 F.3d 1009, 1016-17 (8th Cir. 2007)). A court "has wide discretion" over whether to grant such a motion, and "[o]nly abuse of that discretion, manifested by 'clearly erroneous factual findings or erroneous legal conclusions,' will warrant reversal of the Court's decision." *Id.* (quoting *SPV-LS, LLC v. Transamerica Life Ins.*

Co., 912 F.3d 1106, 1111 (8th Cir. 2019)). "A motion to reconsider is appropriate when the court has obviously misapprehended a party's position or the facts or applicable law." *Interpreter Servs. v. BTB Techs., Inc.*, No. CIV. 10-4007, 2012 WL 984279, at *2 (D.S.D. Mar. 22, 2012) (quoting *Schrag v. Dinges*, 144 F.R.D. 121, 123 (D. Kan. 1992)). Moore argues this Court "misapprehended both the facts and the governing law" with its previous order.

Doc. 9 at 6. In support, Moore reasserts his erroneous assessment that the previous administrative transfers of his cases were recusals. *Id.* at 4. The Court did not misapprehend that understanding when it issued its first order. Rather, it explained to Moore his confusion. Moore, 2026 WL 396106, at *1—2.

As for governing law, the Court evaluated itself “on an objective basis,” pursuant to the command of 28 U.S.C. § 455(a), just as Moore would have the Court do. *Id.* (quoting *Liteky v. United States*, 510 U.S. 540, 548 (1994)); see Doc. 9.

In doing so, the Court found that it would be shirking its responsibility “to oversee the matters assigned to it” by recusing from this matter when no bias, nor the appearance of impropriety, could objectively be found. *Id.* at *2 (quoting *Sw. Bell Tel. Co. v. FCC*, 153 F.3d 520, 523 (8th Cir. 1998)).

The Court remains confident in the correctness of its decision. It is therefore ORDERED that Moore’s Motion for Reconsideration, Doc. 8, is denied. DATED this 18th day of February, 2026. BY 7 C. SCHUL ‘UNITED STATES DISTRICT JUDGE